

## § 993.518

### COMPLIANCE

#### § 993.518 Compliance.

Whenever the season average price to producers for prunes is below the parity level specified in section 2(1) of the act, no handler shall ship consumer packages of prunes unless such prunes are packed and labeled in accordance with the specifications prescribed in this subpart; and whether prices are above or below parity, no handler shall use the nomenclature designations in § 993.515(b) to describe size categories other than those prescribed pursuant to § 993.515(c).

### Subpart—Grade Regulations

#### § 993.601 More restrictive grade regulation.

(a) *Incoming and outgoing regulation.* Whenever the estimated season average price to producers for prunes does not exceed the parity level specified in section 2(1) of the act, the minimum standards which handlers' receipts of natural condition prunes are required to meet pursuant to § 993.49(a) shall be the standards specified in §§ 993.49(a) and 993.97(I), and the minimum standards which handlers' shipments or other final dispositions of prunes are required to meet pursuant to § 993.50(a) shall be the applicable standards set forth in § 993.97 *Exhibit A; minimum standards*, except that the following revised tolerance allowances shall apply in lieu of the tolerance allowances prescribed in paragraphs I C(2), II C(3), I C(5) and II C(6) of § 993.97 as follows:

(1) The combined tolerance allowance for off-color, inferior meat condition, end cracks, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed fifteen percent (15%), except that the first eight percent (8%) of end cracks shall be given one-half value and any additional percentage of end cracks shall be given full value.

(2) The combined tolerance allowance for mold, brown rot, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%), and, within such tolerance, brown rot shall not exceed three percent (3%).

(b) *Above parity situations.* Whenever the estimated season average price to

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producers for prunes exceeds the parity level specified in section 2(1) of the act, the minimum standards set forth in § 993.97 shall apply in their entirety.

[27 FR 7540, Aug. 1, 1962, as amended at 59 FR 38113, July 27, 1994]

#### § 993.602 Maximum tolerances.

In lieu of the provision prescribed in I C of § 993.97 that the tolerance allowances prescribed therein shall be on a weight basis, the tolerance allowance percentage for each defect or group of defects in I C of § 993.97 shall be derived by dividing the number of prunes in the applicable sample affected with the applicable defect(s) by the total number of prunes in such sample.

[39 FR 30344, Aug. 22, 1974]

## PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO THE PEANUT MARKETING AGREEMENT

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AUTHORITY: 7 U.S.C. 601-674.

SOURCE: 55 FR 49983, Dec. 4, 1990, unless otherwise noted.

### DEFINITIONS

#### § 997.1 Secretary.

*Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is, or who may hereafter be authorized to act in his stead.

#### § 997.2 Fruit and Vegetable Division.

*Fruit and Vegetable Division* is synonymous with Division and means the Fruit and Vegetable Division of the Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456.

#### § 997.3 Act.

*Act* means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*).

#### § 997.4 Person.

*Person* means an individual, partnership, corporation, association, or any other business unit.

#### § 997.5 Peanuts.

*Peanuts* means the seeds of the legume *arachis hypogaea* and includes both inshell and shelled peanuts, other than those marketed by the producer in green form for consumption as boiled peanuts.

(a) *Farmers stock*. *Farmers stock peanuts* means picked and threshed peanuts which have not been shelled, crushed, cleaned or otherwise changed (except for removal of foreign material, loose shelled kernels and excess moisture) from the form in which customarily marketed by producers.

(b) *Segregation 1*. *Segregation 1 peanuts* means farmers' stock peanuts with not more than 2 percent damaged kernels

nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(c) *Segregation 2*. *Segregation 2 peanuts* means farmers' stock peanuts with more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(d) *Segregation 3*. *Segregation 3 peanuts* means farmers' stock peanuts with visible *Aspergillus flavus*.

#### § 997.6 Loose shelled kernels.

*Loose shelled kernels* means peanut kernels or portions of kernels completely free of their hulls and found in deliveries of farmers' stock peanuts.

#### § 997.7 Fall through.

*Fall through* means sound split and broken kernels and whole kernels which pass through specified screens.

#### § 997.8 Pickouts.

*Pickouts* means those peanuts removed during the final milling process at the picking table, by electronic equipment, or otherwise during the milling process.

#### § 997.9 Fragmented.

For the purpose of this part, *fragmented* means that not more than 30 percent of the peanuts shall be whole kernels that ride the following screens, by type: Spanish  $1\frac{5}{64} \times \frac{3}{4}$  inch slot; Runner  $1\frac{5}{64} \times \frac{3}{4}$  inch slot; and Virginia  $1\frac{5}{64} \times 1$  inch slot.)

#### § 997.11 Producer.

*Producer* means any person engaged within the area in a proprietary capacity in the production of peanuts for sale.

#### § 997.12 Production areas.

*Production areas* mean all States with commercial production of peanuts including:

(a) The Southeastern Area consisting of the States of Alabama, Florida, Georgia, Mississippi, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(b) The Southwestern Area consisting of the States of Arizona, Arkansas,

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California, Louisiana, New Mexico, Oklahoma, and Texas.

(c) The Virginia-Carolina Area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

## § 997.13 Area association.

*Area association* means for the Southeastern area, GFA Peanut Association, Camilla, Georgia; Southwestern area, Southwestern Peanut Growers Association, Gorman, Texas; and Virginia-Carolina area, Peanut Growers Cooperative Marketing Association, Franklin, Virginia.

## § 997.14 Handle.

*Handle* means to engage in the receiving or acquiring, cleaning and shelling, cleaning inshell, or crushing of peanuts and in the shipment (except as a common or contract carrier of peanuts owned by another) or sale of cleaned inshell or shelled peanuts or other activity causing peanuts to enter the current of commerce: *Provided*, That this term does not include sales or deliveries of peanuts by a producer to a handler or to an intermediary person engaged in delivering peanuts to handler(s): *And Provided further*, That this term does not include sales or deliveries of peanuts by such intermediary person(s) to a handler.

## § 997.15 Handler.

*Handler* means any person who handles peanuts, in a capacity other than that of a custom cleaner or dryer, an assembler, a warehouseman or other intermediary between the producer and the person handling: *Provided*, That this term does not include handlers signatory to the Peanut Marketing Agreement.

## § 997.16 Crop year.

*Crop year* means the 12-month period beginning with July 1 of any year and ending with June 30 of the following year.

## § 997.17 Inspection service.

*Inspection service* means the Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, USDA.

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### QUALITY REGULATIONS

## § 997.20 Incoming regulation.

(a) No handler shall receive or acquire peanuts intended for human consumption, either from a producer or other person, unless such peanuts are inspected pursuant to § 997.50 and are determined to be Segregation 1 peanuts at time of receipt from the producer or, if received from another person, had not been mixed with peanuts of a lower quality than Segregation 1 and meet the following additional requirements specified in this section: *Provided*, That a handler may—

(1) Acquire shelled peanuts from the Commodity Credit Corporation (CCC) or cleaned inshell or shelled peanuts from other handlers, a handler as defined in 7 CFR 998.8, or from buyers who have purchased such peanuts from handlers or from the CCC, if the lot has been certified as meeting the requirements of § 997.30(a) and the identity is maintained; and/or

(2) Perform services for an area association pursuant to a peanut receiving and warehouse contract.

(b) *Moisture and foreign material*—(1) *Moisture*. Except as provided under paragraph (d) of § 997.20, no handler shall receive or acquire peanuts containing more than 10.49 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storing or milling. For farmers stock peanuts, moisture determinations shall be rounded to the nearest whole number. Moisture determinations on shelled peanuts shall be carried to the hundredths place.

(2) *Foreign material*. No handler shall receive or acquire farmers stock peanuts containing more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be received or acquired if they are held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term *sand-screen* means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(c) *Damage*. For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all

percentage determinations shall be rounded to the nearest whole number.

(d) *Seed peanuts.* Peanuts which are not Segregation 1 peanuts and therefore cannot be acquired for human consumption may be acquired, shelled and delivered for seed purposes. Peanuts intended for seed use, produced under the auspices of a State agency which regulates or controls the production of seed peanuts, which do not meet Segregation 1 requirements shall be stored and shelled separate from peanuts intended for human consumption. However, Segregation 2 seed peanuts, produced under the auspices of the State agency, which contain up to 3.00 percent damaged kernels and are free from visible *Aspergillus flavus* may be stored and shelled with Segregation 1 peanuts which are also produced under the auspices of the State agency. A handler whose operations include custom seed shelling may receive, custom shell, and deliver for seed purposes farmers stock peanuts, and such peanuts shall be exempt from the requirements of this section and, therefore, shall not be required to be inspected and certified as meeting these requirements, and the handler shall report to the Division the weight of each lot of farmers stock peanuts received on such basis on a form provided by the Department. However, handlers who acquire seed peanut residuals from their custom shelling of uninspected (farmers stock) seed peanuts or from another person may mill such residuals with other receipts or acquisitions of the handler, and such peanuts which meet the requirements specified in §997.30(a) may be disposed of by sale to human consumption outlets.

(e) *Oilstock.* Handlers may acquire for disposition to domestic crushing or export farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. Handlers may act as accumulators and acquire, for other handlers; a handler as defined in 7 CFR 998.8 or from other persons, Segregation 2 or 3 farmers stock peanuts. Handlers may also acquire shelled peanuts originating from Segregation 2 or 3 farmers stock or the entire mill production of peanuts from

Segregation 1 farmers stock or lots of shelled peanuts originating from Segregation 1 peanuts and which have been positive lot identified as specified in §997.30(d), which failed to meet the requirements for human consumption pursuant to §997.30(a): *Provided*, That all such acquisitions are held separate from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts. Handlers may commingle the Segregation 2 and 3 peanuts or keep them separate and apart. Handlers who acquire farmers stock peanuts of a lower quality than Segregation 1 or cleaned inshell peanuts which fail to meet the requirements for human consumption shall report such acquisitions to the Division as prescribed on a form prescribed by the Division. Handlers who acquire grades or sizes of shelled peanuts which fail to meet the requirements for human consumption for disposition to domestic crushing and subsequent export to countries shall report such disposition on a form provided by the Division.

(f) *Shelled peanuts.* Handlers may acquire shelled peanuts (which originated from "Segregation 1 peanuts") from other handlers or a handler as defined in 7 CFR 998.8, for remilling and subsequent disposition to human consumption outlets. Further disposition of such peanuts shall be regulated by §997.40.

(g) No producer may handle, process, prepare for sale, or otherwise alter peanuts of his own production from the condition of farmers stock, for disposition in human consumption outlets unless such peanuts are first inspected and certified pursuant to §997.50 and meet the applicable requirements of this section.

[62 FR 1259, Jan. 9, 1997]

#### §997.30 Outgoing regulation.

(a) *Shelled peanuts.* (1) No handler shall dispose of shelled peanuts for human consumption unless such peanuts are positive lot identified, certified "negative" as to aflatoxin and certified as meeting the following requirements:

MAXIMUM LIMITATIONS  
[Excluding lots of “splits”]

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total		
Runner .....	1.50	2.50	3.00%; $\frac{1}{64}$ inch round screen.	3.00%; $\frac{1}{64} \times \frac{3}{4}$ inch slot screen.	4.00% Both screens.	.20	9.00
Virginia (except No. 2).	1.50	2.50	3.00%; $\frac{1}{64}$ inch round screen.	3.00%; $\frac{1}{64} \times 1$ inch slot screen.	4.00% Both screens.	.20	9.00
Spanish and Valencia	1.50	2.50	3.00%; $\frac{1}{64}$ inch round screen.	3.00%; $\frac{1}{64} \times \frac{3}{4}$ inch slot screen.	4.00% Both screens.	.20	9.00
No. 2 Virginia .....	1.50	3.00	6.00%; $\frac{1}{64}$ inch round screen.	6.00%; $\frac{1}{64} \times 1$ inch slot screen.	6.00% Both screens.	.20	9.00
Runner with splits (not more than 15% sound splits).	1.50	2.50	3.00% $\frac{1}{64}$ inch round screen.	3.00% $\frac{1}{64} \times \frac{3}{4}$ inch slot screen.	4.00% Both screens.	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.50	2.50	3.00% $\frac{1}{64}$ inch round screen.	3.00% $\frac{1}{64} \times 1$ inch slot screen.	4.00% Both screens.	.10	9.00
Spanish & Valencia with splits (not more than 15% sound splits).	1.50	2.50	3.00% $\frac{1}{64}$ inch round screen.	2.00% $\frac{1}{64} \times \frac{3}{4}$ inch slot screen.	4.00% Both screens.	.10	9.00
Lots of “splits”							
Runner (not more than 4% sound round whole kernels).	2.00	2.50	3.00%; $\frac{1}{64}$ inch round screen.	3.00%; $\frac{1}{64} \times \frac{3}{4}$ inch slot screen.	4.00% Both screens.	.20	9.00
Virginia (not less than 90% splits).	2.00	2.50	3.00%; $\frac{1}{64}$ inch round screen.	3.00%; $\frac{1}{64} \times 1$ inch slot screen.	4.00% Both screens.	.20	9.00
Spanish & Valencia (not more than 4% sound whole kernels).	2.00	2.50	3.00%; $\frac{1}{64}$ inch round screen.	3.00%; $\frac{1}{64} \times \frac{3}{4}$ inch slot screen.	4.00%; Both screens.	.20	9.00

(2) The term *fall through*, as used in this paragraph, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Prior to shipment, appropriate samples for pretesting shall be drawn in accordance with paragraph (c) of this section from each lot of peanuts. For the current crop year, “negative” aflatoxin content means 15 parts per billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements.

(b) *Cleaned inshell peanuts*. No handler shall ship, sell, or otherwise dispose of cleaned inshell peanuts for human consumption:

(1) With more than 1.00 percent kernels with mold present unless a sample of such peanuts, drawn by an inspector of the Federal or Federal-State Inspection Service, was analyzed chemically by a U.S. Department of Agriculture

laboratory (hereinafter referred to as “USDA laboratory”) or a laboratory listed in paragraph (c) of this section and found to be wholesome relative to aflatoxin;

(2) With more than 2.00 percent peanuts with damaged kernels;

(3) With more than 10.00 percent moisture; or

(4) With more than 0.50 percent foreign material.

(c) *Sampling and testing shelled peanuts*. (1) Each handler shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by an inspector of the Federal or Federal-State Inspection Service. The gross amount of peanuts drawn shall be large enough to provide for a grade analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. The three 48-pound samples shall be designated by the Federal or

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Federal-State Inspection Service as "Sample #1N", "Sample #2N", and "Sample #3N" and each sample shall be placed in a suitable container and "positive lot identified" by means acceptable to the Inspection Service. Sample #1N may be prepared for immediate testing or Sample #1N, Sample #2N, and Sample #3N may be returned to the handler for testing at a later date.

(2) The handler shall cause Sample #1 to be ground by the Federal or Federal-State Inspection Service, a USDA laboratory or a laboratory listed herein, in a "subsampling mill" approved by the Division. The resultant ground subsample from Sample #1N shall be of a size specified by the Division and shall be designated as "Subsample 1—ABN" and at the handler's or buyer's option, a second subsample may also be extracted from Sample #1N. It shall be designated as "Subsample 1—CDN". Subsample 1—CDN may be sent as requested by the handler or buyer, for aflatoxin assay, to a USDA laboratory or other laboratory that can provide analyses results on such samples in 36 hours. The cost of sampling and testing Subsample 1—CDN shall be for the account of the requester. Subsample 1—ABN shall be analyzed only in a USDA laboratory or a laboratory listed herein. Both Subsamples 1—ABN and 1—CDN shall be accompanied by a notice of sampling signed by the inspector containing, at least, identifying information as to the handler (shipper), the buyer (receiver), if known, and the positive lot identification of the shelled peanuts. A copy of such notice covering each lot shall be sent to the Division.

(3) The samples designated as Sample #2N and Sample #3N shall be held as aflatoxin check-samples by the Inspection Service or the handler and shall not be included in the shipment to the buyer until the analyses results from Sample #1N are known.

(4) Upon call from the laboratory, handler shall cause Sample #2N to be ground by the Inspection Service in a "subsampling mill." The resultant ground subsample from Sample #2N shall be of a size specified by the Division and it shall be designated as "Subsample #2—ABN." Upon call from the

laboratory, the handler shall cause Sample #3N to be ground by the Inspection Service in a "subsampling mill." The resultant ground subsample from Sample #3N shall be of a size specified by the Division and shall be designated as "Subsample #3—ABN". "Subsamples 2—ABN and 3—ABN" shall be analyzed only in a USDA laboratory or a laboratory listed herein and each shall be accompanied by a notice of sampling. A copy of each such notice shall be sent to the Division. The results of each assay shall be reported by the laboratory to the handler and to the Division. All costs involved in the sampling and testing of peanuts required by this regulation shall be for the account of the applicant.

(5) Information on making arrangements for the required inspection and certification can be obtained by contacting the Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, P.O. Box 96456, room 2049-S, Washington, DC, 20090-6456, telephone (202) 690-0604 or facsimile (202)720-0393.

(i) Laboratories at the following locations are approved to perform the chemical analyses required pursuant to this part. The sampling plan and procedures may be obtained from the Science and Technology Division.

Science and Technology Division, AMS, USDA, P.O. Box 279, 301 West Pearl St., Aulander, NC 27805, Tel: (919) 345-1661 Ext. 156, Fax: (919) 345-1991

Science and Technology Division, AMS, USDA, 1211 Schley Ave., Albany, GA 31707, Tel: (912) 430-8490/8491, Fax: (912) 430-8534

Science and Technology Division, AMS, USDA, P.O. Box 488, Ashburn, GA 31714, Tel: (912) 567-3703

Science and Technology Division, AMS, USDA, 610 North Main St., Blakely, GA 31723, Tel: (912) 723-4570, Fax: (912) 723-3294

Science and Technology Division, AMS, USDA, 1557 Reeves St., Dothan, AL 36303, Tel: (334) 794-5070, Fax: (334) 671-7984

Science and Technology Division, AMS, USDA, 107 South Fourth St., Madill, OK 73446, Tel: (405) 795-5615, Fax: (405) 795-3645

Science and Technology Division, AMS, USDA, P.O. Box 272, 715 N. Main Street, Dawson, GA 31742, Tel: (912) 995-7257, Fax: (912) 995-3268

Science and Technology Division, AMS, USDA, P.O. Box 1130, 308 Culloden St., Suffolk, VA 23434, Tel: (804) 925-2286, Fax: (804) 925-2285

ABC Research, 3437 SW 24th Avenue, Gainesville, FL 32607-4502, Tel: (904) 372-0436, Fax: (904) 378-6483

J. Leek Associates, Inc., P.O. Box 50395, 1200 Wyandotte (31705), Albany, GA 31703-0395, Tel: (912) 889-8293, Fax: (912) 888-1166

J. Leek Associates, Inc., P.O. Box 368, 675 East Pine, Colquitt, GA 31737, Tel: (912) 758-3722, Fax: (912) 758-2538

J. Leek Associates, Inc., P.O. Box 6, 502 West Navarro St., DeLeon, TX 76444, Tel: (817) 893-3653, Fax: (817) 893-3640

Pert Laboratories, P.O. Box 267, Peanut Drive, Edenton, NC 27932, Tel: (919) 482-4456, Fax: (919) 482-5370

Pert Laboratory South, P.O. Box 149, Hwy 82 East, Seabrook Drive, Sylvester, GA 31791, Tel: (912) 776-7676, Fax: (912) 776-1137

Professional Service Industries, Inc., 3 Burwood Lane, San Antonio, TX 78216, Tel: (210) 349-5242, Fax: (210) 342-9401

Southern Cotton Oil Company, 600 E. Nelson Street, P.O. Box 180, Quanah, TX 79252, Tel: (817) 663-5323, Fax: (817) 663-5091

Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, TX 78154-1257, Tel: (210) 651-5799, Fax: (210) 651-9271.

(ii) Handlers should contact the nearest laboratory from the list in paragraph (c)(5)(i) of this section to arrange to have samples chemically analyzed for aflatoxin content, or for further information concerning the chemical analyses required pursuant to this part handlers may contact: The Science and Technology Division, Agricultural Marketing Service, USDA, P.O. Box 96456, room 3507-S, Washington, D.C., 20090-6456, telephone (202) 720-5231, facsimile (202) 720-6496.

(d) *Identification.* Each lot of shelled or cleaned inshell peanuts, in lot sizes not exceeding 200,000 pounds, shall be identified by positive lot identification procedures prior to being shipped or otherwise disposed of. For the purpose of this regulation, "positive lot identification" of a lot of shelled or inshell peanuts is a means of relating the inspection certificate to the lot which has been inspected so that there can be no doubt that the peanuts are the same ones described on the inspection certificate. The crop year that is shown on the positive lot identification tags, or other means of positive lot identification shall accurately describe the crop year in which the peanuts in the lot were produced. Such procedure on bagged peanuts shall consist of attaching a lot numbered tag bearing the official stamp of the Federal or Federal-

State Inspection Service to each filled bag in the lot. The tag shall be sewed (machine sewed if shelled peanuts) into the closure of the bag except that in plastic bags the tag shall be inserted prior to sealing so that the official stamp is visible. Any peanuts moved in bulk or bulk bins shall have their lot identity maintained by sealing the conveyance and if in other containers by other means acceptable to the Federal or Federal-State Inspection Service. All lots of shelled or cleaned inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures, except those lots which have been reconstituted and/or commingled at the request of the receiver. All such reconstituted and/or commingled lots will no longer be considered positive lot identified and, therefore, no longer be eligible for appeal inspection. Handler shall keep and maintain records of the quantities involved in each reconstituting and/or commingling procedure, whether in single or multiple lots, and such records shall be available to the Division on request.

(e) *Reinspection.* Whenever the Division has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Division may reject the then effective inspection certificate and may require the owner of the peanuts to have a reinspection to establish whether or not such peanuts may be disposed of for human consumption.

[62 FR 1260, Jan. 9, 1997, as amended at 63 FR 2850, Jan. 16, 1998; 63 FR 33242, June 18, 1998]

**§ 997.40 Reconditioning and disposition of peanuts failing quality requirements.**

(a) Lots of peanuts which have not been certified as meeting the requirements for disposition to human consumption outlets, may be disposed of for non-human consumption uses which are not regulated or limited by the provisions specified in this section: *Provided*, That each such lot is positive lot identified, using red tags, and certified as to aflatoxin content (actual numerical count). However, on the shipping papers covering the disposition of each such lot of inedible quality peanuts, the handler shall cause the following

statement to be shown: "The peanuts covered by this bill of lading (or invoice, etc.) are not to be used for human consumption."

(b) Except for inedible quality peanuts disposed of under the provisions of paragraph (f)(2) of this section and peanuts derived from the milling for seed of Segregation 2 and 3 farmers stock peanuts, peanuts which have not been certified as meeting the standards set forth in paragraphs (a) or (b) of § 997.30 shall be disposed of as prescribed hereinafter in this section.

(c) *Sheller Oil Stock Residuals—For Crushing or Export.* Peanuts, or portions of peanuts which are separated from edible quality peanuts by screening or sorting or other means during the milling process, may be segregated into categories or they may be commingled as sheller oil stock residuals. Such sheller oil stock residuals shall be identified pursuant to paragraph (d) of this section, but using a red tag, and such peanuts may be disposed of domestically or to the export market, in bags or other suitable containers. The movement of such peanuts shall be reported to the Division by the shipping handler and the crusher, as requested by the Division.

(1) If the peanuts have not been tested and certified as to aflatoxin content, as prescribed in paragraph (c) of this section, the handler shall cause the following statement to be shown on the shipping papers: "The peanuts covered by this bill of lading (or invoice, etc.) are limited to crushing only and may contain aflatoxin."

(2) If the peanuts are certified as 301 ppb or more aflatoxin content, disposition shall be limited to crushing or export.

(d) *Blanching peanuts failing quality requirements.* Handlers may blanch or cause to have blanched positive lot identified shelled peanuts, which originated from Segregation 1 peanuts, that fail to meet the requirements of paragraph (a) of this section because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin. Lots of peanuts which are moved under these provisions must be accompanied by a valid grade inspection certificate and the title shall be retained by the handler until the

peanuts are blanched and certified by an inspector of the Federal or Federal-State Inspection Service as meeting the requirements for disposal into human consumption outlets. To be eligible for disposal into human consumption outlets, such peanuts after blanching, must meet specifications for unshelled peanuts, damaged kernels, minor defects, moisture, and foreign material as listed in paragraph (a) of this section and be accompanied by a negative aflatoxin certificate. The residual peanuts, excluding skins and hearts, resulting from blanching under these provisions, shall be placed in suitable containers acceptable to AMS and red tagged and disposition shall be that such peanuts are returned to the handler for further disposition; or, in the alternative, such residuals shall be positive lot identified by the Federal or Federal-State Inspection Service, and shall be disposed of, by the blancher to crushers who agree to comply with the terms of paragraph (c) of this section. Handlers may contract with Committee approved blanchers for roasting positive lot identified shelled peanuts, which originated from Segregation 1 peanuts, that meet the grade requirements of paragraph (a) of this section but are positive as to aflatoxin. Lots of peanuts moved under these provisions must be accompanied by a valid grade inspection certificate and a valid aflatoxin certificate. To be eligible for disposal into human consumption outlets, such peanuts after roasting, shall have had the positive lot identity maintained and be accompanied by a negative aflatoxin certificate. The residual peanuts, excluding skins and hearts, resulting from roasting under these provisions, shall be placed in suitable containers acceptable to AMS and red tagged and disposition shall be that such peanuts are returned to the handler for further disposition; or that in the alternative, such residuals shall be positive lot identified by a Federal or Federal-State Inspection Service, and shall be disposed of, by the blancher, to handlers who are crushers, or to crushers who are not handlers under the Agreement only on the condition that they agree to comply with the terms of paragraph (c) of this section and all other applicable requirements



of this regulation. Roasting under the provisions of this paragraph shall be performed only by blanchers who are approved by the Committee.

(e) *Remilling peanuts failing quality requirements.* Handlers may remiller or cause to have remilled shelled peanuts, which originated from Segregation 1 peanuts, that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of this section: *Provided*, That such lots of peanuts contain not in excess of 10 percent fall through. Lots of peanuts moved under these provisions must be accompanied by a valid grade inspection certificate and must be positive lot identified and the title of such peanuts shall be retained by the handler until the peanuts have been remilled and certified by the Federal or Federal-State Inspection-Service as meeting the requirements for disposition to human consumption outlets specified in paragraph (a) of this section, and be accompanied by a negative aflatoxin certificate. Remilling under these provisions may include composite remilling of more than one such lot of peanuts owned by the same handler. However, such peanuts owned by one handler shall be held and remilled separate and apart from all other peanuts. The residual peanuts resulting from remilling under these provisions, shall be placed in suitable containers acceptable to AMS and red tagged and disposition shall be that such peanuts are returned to the handler for further disposition; or, in the alternative, such residuals shall be positive lot identified by the Federal or Federal-State Inspection Service, and shall be disposed of, by the remiller, to crushers who agree to comply with the terms of paragraph (c) of this section.

[62 FR 1263, Jan. 9, 1997, as amended at 63 FR 2851, Jan. 16, 1998]

**§ 997.50 Inspection, chemical analysis, certification and identification.**

Each handler shall, at the handler's own expense, prior to or upon receiving and before shipping or disposing of peanuts, cause an inspection to be made of any such peanuts not covered by a valid inspection certificate, to determine whether such peanuts meet the applicable grade requirements effective

pursuant to this part, and shall comply with such identification requirements prescribed by this part or which the Secretary may prescribe. Each handler shall also cause appropriate samples to be drawn and chemically analyzed by a USDA laboratory, or laboratory listed in § 997.30, for wholesomeness as provided in § 997.30 of this part. Such handler shall obtain grade and aflatoxin certificates stating that such peanuts meet the aforementioned applicable requirements and all such certificates shall be available for examination or use by the Division. Acceptable certificates shall be those issued by Federal or Federal-State inspectors authorized or licensed by the Secretary and USDA laboratories or those listed in § 997.30 of this part. Each handler shall furnish, or cause the inspection service or the laboratory to furnish, to the Division, a copy of the inspection certificate and a copy of the results of the chemical analyses issued to the handler on each lot of shelled peanuts or cleaned inshell peanuts.

[62 FR 1264, Jan. 9, 1997]

**ASSESSMENTS**

**§ 997.51 Assessments.**

(a) Each first handler shall pay to the Secretary, with respect to Segregation 1 peanuts received or acquired by the handler, including the handler's own production, an administrative assessment as approved by the Secretary. The rate of assessment shall be the same as the administrative assessment approved by the Secretary and applied to signatory handlers under the Peanut Marketing Agreement No. 146. Such administrative assessment shall be applied during the crop year beginning July 1 and ending June 30 of the following year. Each handler's pro rata share shall be the rate of assessment fixed by the Secretary per net ton of farmers stock peanuts received or acquired, other than those peanuts described in § 997.20(a) (1) and (2). During the crop year, the Secretary may increase the rate of assessment if such an increase is established under the Agreement.

(b) Segregation 2 and Segregation 3 farmers stock peanuts disposed to

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crushing or exported are exempt from assessments under this section.

[62 FR 1264, Jan. 9, 1997]

### REPORTS, BOOKS AND RECORDS

#### **§ 997.52 Reports of acquisitions and shipments.**

Each handler shall report acquisitions of Segregation 1 farmers stock peanuts on a form provided by the Division and file such other reports of acquisitions and shipments of peanuts, as prescribed in this part. Upon the request of the Division, each handler shall furnish such other reports and information as necessary to enable the Division to carry out the provisions of this part. All reports and records furnished or submitted by handlers to the Division which include data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler shall not be disclosed unless such disclosure is determined necessary by the Secretary to enforce the provisions of this part.

[62 FR 1264, Jan. 9, 1997]

#### **§ 997.53 Verification of reports.**

For the purpose of checking and verifying reports filed by handlers or the operation of handlers under the provisions of this part, the Secretary, through its duly authorized agents, shall have access to any premises where peanuts may be held by any handler and at any time during reasonable business hours and shall be permitted to inspect any peanuts so held by such handler and any and all records of such handler with respect to the acquisition, movement, holding, processing or disposition of all peanuts which may be held or which may have been disposed of by the handler. Each handler shall maintain such records of peanuts received, held, and disposed of by the handler, that will substantiate any required reports and will show performance under this part. Such records shall be retained for at least two years beyond the crop year of their applicability.

[62 FR 1264, Jan. 9, 1997]

#### **§ 997.54 Agents.**

The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any service, division or branch in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

[62 FR 1265, Jan. 9, 1997]

### ASSESSMENT RATES

#### **§ 997.101 Assessment rate.**

On and after July 1, 1998, an administrative assessment rate of \$0.33 per net ton of assessable farmers stock peanuts received or acquired by each non-signatory first handler is established for peanuts.

[63 FR 41184, Aug. 3, 1998]

## **PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS**

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